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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/084,795
Filing Date: February 25, 2002
Appellant(s): ZIEGLER ET AL.

MAILED

JAN 09 2008

GROUP 3600

JOHN M. OLIVO
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/21/2007 appealing from the Office action mailed 2/15/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4723749	CARRARO ET AL	2-1988
3599921	CUMBER	8-1971
4905952	PINQUIST	3-1990

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“Up-lift classification of at least 90...roof assemblies” is indefinite as it is unclear what lifting force is being claimed, and the standard of test is subject to change.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8-9, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinquist (4905952) and Cumber (3599921).

Carraro et al shows a system comprising a main runner (76), each main runner having a vertical web and a bulb portion (77), a compression strut (30), a clip (figure 5), each clip having a first leg, a mid portion disposed between the first leg and the second leg (75), each first leg is in direct contact with and is secured to the vertical web of the main runner, each second leg is in direct contact with and is secured to the compression strut (inherently so as it is connected) and

each mid-portion conforms to the bulb portion of a main runner, the bulb portion being interposed between the compression strut and the mid-portion, the first leg (figure 5 at 80) is secured to the main runner by a first fastening device selected from the group consisting of mechanical fastening devices and the second leg is secured to the compression strut (30) by a second fastening device selected from the group consisting of chemical device (material).

Carraro et al does not show a grid formed from a plurality of parallel extending main runners, and a plurality of cross runner extending between the main runners, a plurality of compression struts, a plurality of panels within the grid, a plurality of clips, the compression strut and the clips are discrete parts.

Pinquist shows a ceiling system comprising grid (figure 1) formed from a plurality of parallel extending main runners (21), and a plurality of cross runners (the ones perpendicular to the main runners) between the main runners, a plurality of compression struts (27), a plurality of panels (23) within the grid, a plurality of clips 42).

Cumber shows structures attached to a runner (12) made of discrete parts.

It would have been obvious to one having ordinary skill in art at the time of the invention to modify Carraro et al's structure to show a grid formed from a plurality of parallel extending main runners, and a plurality of cross runner extending between the main runners, a plurality of compression struts, a plurality of panels within the grid, a plurality of clips since it would allow for easy supporting of a ceiling systems formed of a grid formed from a plurality of parallel extending main runners and a plurality of cross runner extending between the main runners as taught by Pinquist, and having the attaching structures connecting to a runner made of discrete parts as taught by Cumber would have been obvious to one having ordinary skill in the art as

using discrete parts to sandwich and connect to a runner is a well known alternative to sandwiching a runner with parts that snap fit over a runner as the parts provide the same function of connecting and sandwiching the runner in the middle.

Per claim 8, Carraro et al as modified shows the plurality of panels being downwardly accessible.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Cumber (3599921).

Carraro et al shows a system comprising a main runner (76), each main runner having a vertical web and a bulb portion (77), a compression strut (30), a clip (figure 5), each clip having a first leg, a mid portion disposed between the first leg and the second leg (75), each first leg is in direct contact with and is secured to the vertical web of the main runner, each second leg is in direct contact with and is secured to the compression strut (inherently so as it is connected) and each mid-portion conforms to the bulb portion of a main runner, the bulb portion being interposed between the compression strut and the mid-portion, the first leg (figure 5 at 80) is secured to the main runner by a first fastening device selected from the group consisting of mechanical fastening devices and the second leg is secured to the compression strut (30) by a second fastening device selected from the group consisting of chemical device (material).

Carraro et al does not show the compression strut and the clips are discrete parts.

Cumber shows structures attached to a runner (12) made of discrete parts.

It would have been obvious to one having ordinary skill in art at the time of the invention to modify Carraro et al's structure to show the compression strut and the clips are discrete parts as taught by Cumber because it would have been obvious to one having ordinary skill in the art

as using discrete parts to sandwich and connect to a runner is a well known alternative to sandwiching a runner with parts that snap fit over a runner as the parts provide the same function of connecting and sandwiching the runner in the middle.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinquist (4905952), and Cumber (3599921)

Carraro et al as modified shows all the claimed limitations except for the system being capable of meeting an up-lift classification 90.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's modified structure to show the system being capable of meeting an up-lift classification 90 because it would have been obvious to a designer to make the system as strong as needed to withstand strong uplifting force generated by strong winds, hurricane, and other elemental factors, and the strengthening of the system can be easily accomplished by thickening the material, or by providing strong material.

5. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinquist (4905952), and Cumber (3599921).

Carraro et al as modified shows all the claimed limitations except for the struts being attached to the runners by the clips at an interval of about 2 feet or at an interval of up to about 12 feet..

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's modified structure to show the struts being attached to the runners by the clips at an interval of about 2 feet or at an interval of up to about 12 feet because it would have been an obvious matter of engineering design choice to attach the struts to the runner

at intervals of 2 feet or 12 feet as it is up to the designer to choose the desired fastening forces between the struts and the runners for supporting the ceiling.

6. Claims 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Cumber (3599921).

Carraro et al as modified shows all the claimed limitations except for the system being capable of meeting an up-lift classification 90.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's modified structure to show the system being capable of meeting an up-lift classification 90 because it would have been obvious to a designer to make the system as strong as needed to withstand strong uplifting force generated by strong winds, hurricane, and other elemental factors, and the strengthening of the system can be easily accomplished by thickening the material, or by providing strong material.

(10) Response to Argument

With respect to the 112 and claims 5, and 16, examiner respectfully points out that the limitation to "uplift classification...at least 90..." is unclear and indefinite as the standard of test is subject to change. Applicant's specification has not set forth the year of the uplift classification of at least 90, and it is unclear which year of the uplift classification of at least 90, applicant is claiming. As explained, the standard of test and designation of classification is subject to change; it thus follows that applicant's claimed limitation is indefinite.

With respect to Carraro et al, examiner respectfully points out that the reference shows the limitations as set forth above. the reference shows a compression strut (30), and a bulb portion 77) being interposed between the strut (30) and the mid-portion. With respect to the

definition of "compression strut", examiner respectfully points out that a person of ordinary skill in the art would understand "compression strut" to also mean "a strut that is under compression or a strut is able to withstand compression". There is nothing in the structure (30) that would prevent it from being able to withstand a "compression force", and there is nothing in the claimed limitations that differentiates applicant's compression strut from Carraro et al's compression strut. Carraro et al's structure (30) is thus a compression strut as claimed.

With respect to the bulb portion being interposed between the compression strut and the mid-portion of the clip, examiner respectfully points out that the compression strut (30) including parts (30, 29, 74) certainly positions on one side of the bulb (77) and the mid-portion of the clip (the part between parts 75, 80). This consistent interpretation of the compression strut has been in both the office action of 5/3/2006 and 2/15/2007. The reference shows the claimed limitations "interposed between the compression strut and the mid-portion" as claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Phi Dieu Tran A



12/24/2007

Conferees:

Richard Chilcot

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SUPERVISORY PATENT EXAMINER